

Docket No.: HERLA
Appl. No.: 10/820,441

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REMARKS

The last Office Action of August 25, 2005 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-14 are pending in the application. Claims 1, 5, 13, 14 have been amended. No claims have been canceled or added. Amendments to the specification has been made. No fee is due.

It is noted that the disclosure is objected because of some informalities. Applicant has amended the specification, as suggested by the Examiner to address this objection. Withdrawal of the objection to the disclosure is thus respectfully requested.

Claims 1, 2, 4, 11, and 13 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 6,264,409 to Date.

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of U.S. Pat. No. 5,009,554 to Kameyama.

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of U.S. Pat. No. 3,806,272 to Muller.

Claims 7-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of U.S. Pat. No. 5,322,494 to Holtey.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of U.S. Pat. No. 2,995,069 to Wahlstrom.

Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of Wahlstrom and further in view of Kameyama.

Claims 12 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of U.S. Pat. No. 4,583,894 to Mitchell.

It is noted with appreciation that claim 5 is indicated allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

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Applicant has rewritten claim 5 in independent form, as suggested by the Examiner, who indicated that originally filed claim 5 would be allowable if rewritten in independent form. Accordingly, applicant asserts that claim 5 has not been narrowed to trigger prosecution history estoppel. See *Salazar v. Procter & Gamble Co.*, 75 USPQ2d, 1369 (stating that introducing claim 7 based on the allowable subject matter of dependent claim 3 of the "149 application was not a narrowing amendment for purposes of patentability and, therefore, does not by itself give rise to prosecution history estoppel). It is therefore applicant's belief that claim 5 has not been narrowed to trigger prosecution history estoppel.

In addition, applicant has amended independent claim 1 by setting forth the arrangement of the collet and the relationship between the collet and the tie rod of the spindle head assembly to clamp and expel a tool. Likewise, independent method claim 13 has been amended to recite the functional relationship between the collet and the tie rod for clamping and expelling the tool. Support therefore can be found, for example, in paragraph [0021] of the Instant specification. Thus, the reception of the tool is simple and clamping and ejection of the tool is realized by the rearward and forward motions of the tie rod in cooperation with the collet.

The Date reference describes a spindle apparatus with incorporated tool holder clamp device, whereby a spindle (1) has a central throughhole (19) for accommodating a bolt member (23). A threaded part (25) of the bolt member extends in a taper hole (9) for **threaded engagement** in a threaded hole (H) formed in a separate tool holder T. This is shown for example in Fig. 2A. Thus, attachment of a tool to the spindle apparatus is complex and cumbersome. In contrast thereto, claim 1 of the present invention sets forth a simple and effective clamping and ejection of a tool by means of the collet and its interaction with the tie rod.

For the reasons set forth above, it is applicant's contention that Date neither teaches nor suggests the features of the present invention, as recited in claims 1 and 13.

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As for the rejection of the retained dependent claims, these claims depend on claims 1 and 13, respectively, share their presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

By: 

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